

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference see form PCT/ISA/220		FOR FURTHER ACTION See paragraph 2 below	
International application No. PCT/EP2005/000869	International filing date (day/month/year) 28.01.2005	Priority date (day/month/year) 23.02.2004	
International Patent Classification (IPC) or both national classification and IPC D04B1/10			
Applicant SANTONI S.P.A.			

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Sterle, D Telephone No. +49 89 2399-2071	
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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITYInternational application No.
PCT/EP2005/000869

SAP20 Rec'd PCT/PTO 02 AUG 2006

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language English, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material:
 in written format
 in computer readable form
 - c. time of filing/furnishing:
 contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	5-8
	No: Claims	1-3,9-11
Inventive step (IS)	Yes: Claims	5-8
	No: Claims	4
Industrial applicability (IA)	Yes: Claims	1-11
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

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Comments concerning section V:

1. Documents US-A-3 035 427, WO-A-0 204 727 and US-A-1 852 936 which will be referred to as D1 to D3 in that order hereinbelow, all disclose a method for producing open-knit fabric (see D1: column [=col.] 3, lines [=l.] 9-10; D2: claim 1; D3: claim 1) with machines for knitting hosiery (D1: col.1, l.10-14; col.2, l.10-21; D2: page [=p.] 1, l.1-2; D3: p.1, l.33-37) which consists in knitting in succession rows (D1: 1, 2, 3, 4; D2: see Fig.10; D3: a₁, a₂, a₃, a₄) by means of a plurality of needles (D1: col.2, l.28-30; D2: 30; D3: 10) of the machine that is used, consisting in performing openwork (D1: Fig.1; D2: Fig.10; D3: Figs.1 and 9) constituted by holes (D1: X, X'; D2: Fig.10; p.2, l.4-7; D3: 25^a, 25^b), each of which is provided by means of a group of needles (D1: col.3, l.1-5, D2: p.6, l.1-7; D3: 1~4; 5~8) in which a first needle (D1: at C or C'; D2: claim 1, step b); D3: 2,3,6,7), after taking part in the formation of a first row (D1: 4 or 2; D2: Fig.10; D3: a₂) of knitting, is freed from the loop (D1: 8, 8'; D2: 60a; D3: x, y) of said first row (D1: 4 or 2; D2: Fig.10; D3: a₂) of knitting by transferring (D1: col.2, l.45-50; D2: claim 1, step d); said loop (D1: 8, 8'; D2: 60a; D3: x, y) to a second needle (D1: at D' or D; D2: 30; D3: 1, 4, 5, 8) that is contiguous to said first needle (D1: at C or C'; D2: claim 1, step b); D3: 2,3,6,7), said first needle being actuated so as to resume knitting (D1: col.2, l.64-66; D2: Fig.10; claim 2; D3: Fig.5), forming a new loop (D1: at C with y' or at C' with y³; D2: Fig.10; D3: z) of a row (D1: 2 or 4; D2: Fig.10; D3: a₃) of knitting that is subsequent to said first row (D1: 4 or 2; D2: Fig.10; D3: a₂).

Since all the steps of a method according to independent claim 1 are already disclosed in a single one of documents D1 to D3, the subject-matter defined by independent claim 1 would appear not to meet the requirements of Article 33(2) PCT.

2. The features according to the following embodiments of the invention are either known in conjunction with the features mentioned in the independent claims from D1, D2 or D3 or else are suggested for the respective technical purpose by US-A-3 137 150, which will be referred to as D4 hereinbelow:

<u>Claim</u>	<u>Source</u>
2	D2: p.10, l.11-16; D3: Fig.7; D4: col.3, l.49-51;

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- 3 D1: col.2, l.55-58; D3: p.2, l.107-121; Fig.7;
4 D4: col.3, l.66-72;
9 D1: Z in Fig.2; D2: Fig.10; D3: Fig.9; D4: Fig.8;
10 D2: Figs.1-9;
11 D1: Fig.1; D2: claim 2; D3: Fig.1; D4: Figs.7 and 8;

The embodiments according to dependent claims 2, 3, 9 to 11 would therefore also appear not to comply with the requirements of Article 33(2) PCT while the slight modification of stitch construction in the downstream periphery of the hole set out by claim 4 is known in substance from D4 and thus considered obvious for the skilled person for obtaining a corresponding effect. The embodiment according to dependent claim 4 would therefore appear not to comply with the requirements of Article 33(3) PCT.

3. None of the cited documents discloses methods including the steps recited in dependent claims 5 or 6, i.e. cascading stitch transfers to adjacent needles in successive courses in conjunction with a step of knitting a bridle at the first freed needle, for whatever the purpose. Including these steps in methods otherwise according to D1, D2, D3 or D4 in order to vary the shape and dimensions of the apertures in the knitted fabric is therefore not considered obvious.

The subject-matter defined by dependent claims 5 or 6, and claims 7 and 8 dependent on these claims (see section VIII below), would therefore appear to meet the requirements of Articles 33(2) and (3) PCT.

4. The subject-matter according to claims 1 to 11 would be susceptible to industrial application and therefore appear to comply with the requirements of Article 33(4) PCT.

Comments concerning section VII:

1. Contrary to the requirements of Rule 6.3(b) PCT, the independent claims are not cast in the two-part form with respect to the closest prior art.

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2. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 to D4 is not mentioned in the description, nor are these documents identified therein.

Comments concerning section VIII:

1. Although claim 11 is directed to an open-knit article, the claim fails to define the structural technical features (cf. Rule 6.3(a) PCT) of the product for which protection is sought. The scope of claim 11 is therefore unclear, contrary to the requirements of Article 6 PCT (cf. ISPE Guidelines 5.33).
2. Dependent claims 7 and 8 refer to " ... the needles freed by the transfer of the loop ..." the context of which with the subject-matter defined by claims 1 to 4 is not clear since according to these latter claims, only a first and single needle is freed by transfer of a loop.

Referring back to claims 1 to 4, the scope of protection sought by dependent claims 7 or 8 is therefore unclear, contrary to the requirements of Article 6 PCT.